

(b) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the proceedings constitute the record of the hearing.

**§ 5.505 Public access to hearings.**

All hearings conducted pursuant to this part are open to the public, including representatives of the press, except when the Administrative Law Judge finds that the subject matter to be, or being, brought out in the evidence concerns classified material relating to national security, or when other circumstances exist which have been held to warrant a limitation or exception to the right of a public hearing in a United States District Court.

**§ 5.507 Disqualification of Administrative Law Judge.**

(a) In any suspension and revocation proceeding conducted under this part, the Administrative Law Judge may withdraw voluntarily from a particular case for reasons of a possible conflict of interest. In such event, the Administrative Law Judge shall immediately notify the Commandant of the desire to withdraw and the reasons therefor.

(b) In any case the investigating officer or the respondent may, in good faith, request the Administrative Law Judge to withdraw on the grounds of personal bias or other disqualification. The party seeking the Administrative Law Judge's disqualification shall file with the Administrative Law Judge a timely affidavit or statement sworn to before a Coast Guard officer of other official authorized to administer oaths, setting forth in detail the facts alleged to constitute the grounds for disqualification. The investigating officer or the respondent may present testimony of witnesses or, at minimum, an offer of proof to support these grounds. The Administrative Law Judge rules whether or not disqualification is warranted.

(c) If the person seeking disqualification takes exception to the Administrative Law Judge's ruling, that person may appeal such ruling to the Commandant. When such appeal is made, the Administrative Law Judge immediately forwards the affidavit or sworn statement with the decision thereon to

the Commandant. The Administrative Law Judge may proceed with the hearing unless it can be shown that a delay in the hearing pending a determination of the appeal will not be detrimental to the matters being adjudicated. The Administrative Law Judge ensures that all matters relating to such claims of disqualification appear affirmatively in the record.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 97-057, 62 FR 51042, Sept. 30, 1997]

**§ 5.509 Opening the hearing.**

The Administrative Law Judge opens the hearing at the time and place specified in the notice, administers all necessary oaths, and causes a complete record of the proceedings to be kept. The time and place of opening the hearing may be changed by the Administrative Law Judge by written notice served on the investigating officer and the respondent, either on the Administrative Law Judge's own motion or upon application of the investigating officer or respondent. Such change must be consistent with the rights of the respondent to a fair, impartial and timely hearing and the availability of witnesses.

**§ 5.511 Continuance of a hearing.**

The Administrative Law Judge may, either on the Administrative Law Judge's own motion or the motion of the investigating officer or respondent, continue the hearing from day to day or adjourn such hearing to a later date or to a different place by announcement at the hearing or by other appropriate notice. When determining whether to grant a continuance, the Administrative Law Judge gives careful consideration to the future availability of witnesses, the schedule of the vessel or vessels on which the respondent and/or witnesses may be employed, and to the nature of the charge and gravity of the offense.

**§ 5.513 Appearances.**

The appearances of the investigating officer and respondent and their representatives are entered in the record.